IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.: 717 of 2001.

Reserved on: 10.09.2007.

Decided on: 27.09.2007.

Shri Kishori Lal. … … Petitioner.

Versus

The Director of Consolidation and Others. … … Respondents.

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting?[1] *No.*

For the Petitioner:	**Mr. J.R. Thakur, Advocate**
For Respondent No.1:	**Mr. M.S. Chandel, Advocate General with Mr. M.A. Khan and Ms. Meenakshi Sharma, Deputy Advocate Generals.**
For Respondents No.2 to 4:	**Mr. G.D. Verma, Sr. Advocate with Mr. B.C. Verma, Advocate.**

Rajiv Sharma, Judge:

A challenge has been laid by the petitioner to the order passed by the Director, Consolidation of Holdings on 3.5.2001 in case No.98/2000.

The brief facts necessary for the adjudication of this petition are that the consolidation proceedings were started under the provisions of Himachal Pradesh Holdings (Consolidation and

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[1] *Whether reporters of local papers may be allowed to see the judgment? No.*

Prevention of Fragmentation) Act, 1971 and consequently a scheme was prepared for carrying out the consolidation to consolidate the holdings of the right holders. The proceedings were initiated in the year 1989-90. The case projected by the petitioner before this Court is that an entry was made during consolidation proceedings whereby the petitioner was shown as non-occupancy tenant qua Khasra No.901 old and new Khasra No.461 measuring 0.15 marlas. The entry to this effect was incorporated in the Jamabandi for the year 1989-90 and the same continued upto May, 2001 alongwith possession. The respondents No.2 to 4 feeling aggrieved by the entry made in the Jamabandi for the year 1989-90 preferred a revision before the Director, Consolidation of Holdings on 19th August, 2000 primarily contending before him that the petitioner was never inducted by them as tenant and the entry made in the Jamabandi for the year 1989-90 was unauthorised and the same could not be given effect to. The respondents No.2 to 4 had further contended that it was only during the consolidation proceedings that the entry has been made in the revenue record and before that they were shown as owners in possession as per Jamabandi for the year 1986-87. The respondents had further contended before the Director, Consolidation of Holdings that the petitioner was only inducted as gair mourusi tenant over Khasra no.907 measuring 0-7 marlas and thus the share of the petitioner was only one marla, whereas vide new Khasra No.461 old 901 the petitioner has been granted 0-15 marlas of land.

The learned Director, Consolidation of Holdings has allowed the revision preferred by respondents No.2 to 4 on 3.5.2001 and had allotted 0-1 marla land to the petitioner and the remaining 0-14 marlas of Khasra No.461 has been granted in favour of the respondents No.2 to 4.

Mr. J.R. Thakur had strenuously argued that as per the Jamabandi for the year 1989-90 his client was inducted as non-occupancy tenant and the order passed by the Director, Consolidation of Holdings is not sustainable in the eyes of law. The learned Advocate General as well as Mr. G.D. Verma, Sr. Advocate with Mr. B.C. Verma have supported the order dated 3.5.2001 passed by the Director, Consolidation of Holdings.

I have heard the learned counsel for the parties and have gone through the record produced by the State carefully.

The consolidation proceedings were initiated in the year 1989-90. I have seen the Jamabandi for the year 1986-87. In this Jamabandi the respondents No.2 to 4 have been shown as owners in possession. There is no entry in favour of the petitioner showing him as tenant. It is only in the year 1989-90 that abruptly the entry has been changed whereby the petitioner has been shown a tenant in new Khasra No.461 (old 901). The petitioner had not explained the manner and the circumstances and on what basis the entry has been made in his favour. The petitioner was only a tenant in Khasra No.907 to the extent of one marla, whereas during the course of consolidation proceedings, the petitioner has been shown tenant on Khasra No.461 on 0-15

marlas of land. This mistake has been set right by the Director, Consolidation of Holdings in accordance with law. The Director, Consolidation of Holdings has rightly granted 0-14 marlas of land to respondents No.2 to 4 and remaining one marla to the petitioner. There is neither any jurisdictional error nor procedural irregularity in the order passed by the Director, Consolidation of Holdings and the same is liable to be up-held.

Accordingly, the writ petition is dismissed with no order as to costs. The order dated 3.5.2001, passed by the Director, Consolidation of Holdings is up-held.

(Rajiv Sharma) Judge.

September 27, 2007 *(sck).*